

Irby/Finance Committee Meeting Monday, December 14, 2015

The Irby/Finance Committee met on December 14, 2015 at 10:45 AM at the Old U.S. Mint.

Members present: Robert A. Barnett; Madlyn B. Bagneris; Michael M. Davis; Rosemary Upshaw Ewing; Janet V. Haedicke, Ph.D.; Kevin Kelly; Lawrence N. Powell, Ph.D.; and Diane K. Zink

DCRT Staff present: Randy Davis, DCRT Deputy Secretary; and Julia George Moore, DCRT Counsel

Others present: Mark A Tullos, Jr.; Robert E. Wheat

A quorum was present.

1. Call to Order

Mr. R. Barnett called the meeting to order at 10:45 AM.

2. Motion to Adopt the Agenda

Ms. Ewing MOVED, seconded by Dr. Haedicke, to accept the agenda. There was no public comment. **Unanimously approved.** Mr. Barnett asked that any person interested in speaking or appearing before the Committee to discuss Item (5)(c) on today's agenda to complete and turn in a "Request to Speak" pre-printed card. Mr. Barnett stated that the By-Laws allowed for a 20 minute time period within which all public comments would take place. He suggested that speakers discuss with one another whether one or more could speak for the group. He did state that anyone could speak, and if that was the case, then speakers were going to be limited to 90 seconds so that everyone could appear and have an opportunity to publicly discuss. Approximately 15 cards were submitted to Staff.

3. Approval of Minutes

The minutes from the November 9, 2015 meeting were distributed in advance for the Committee's review. Ms. Ewing MOVED, seconded by Dr. Powell, to approve the November 9, 2015 Irby/Finance Committee minutes. There was no public comment. **Unanimously approved.**

4. Financials

There were no new financials since the last meeting.

5. Old Business

a. Commercial bid process Step 3: 507 St. Ann Street

The current tenant, Artistic Heritage of New Orleans DBA Vieux Carré Gallery, was the only bidder. Mr. Barnett asked whether *Artistic Heritage* was a responsive and responsible tenant. Staff stated that it was good tenant without any known issues. The Committee recommended that it remain in the space. However, Mr. Barnett asked that the tenant's legal name (*Artistic Heritage* of New Orleans, LLC) be used on the lease. Ms. Ewing MOVED to accept *Artistic Heritage* as the

commercial tenant at a new monthly rental rate of \$1,242 effective March 1, 2016. Mrs. Bagneris seconded the motion. There was no public comment. The motion was **unanimously approved**.

b. Commercial bid process Step 3: 517 St. Ann Street

Two bids were received for the commercial space. One bid was submitted by the existing tenant, *Ma Sherie Amour*. The other bid was submitted by *Perlis Clothing*. Mr. Barnett questioned whether there was an issue with the language of our standard lease in that *Perlis* has another store in Jax Brewery, which is located within a one (1) mile radius of the Lower Pontalba Building. The Irby Committee determined that *Perlis* meets the criteria set forth in the commercial lease (See page 10, Section 9) to qualify for an exemption from the restrictive covenant not to operate a similar business within a one-mile radius of the Lower Pontalba Building.

Mr. Barnett asked what the history with *Ma Sherie Amour* is. Ms. Mack said *Ma Sherie Amour* has been a very good tenant and always pays the rent on time. It was discussed whether anticipated revenue for 2016 would change. Ms. Ewing expressed concern that *Perlis* had internal management problems last year, with malfeasance committed by someone on *Perlis*' staff.

Mr. Barnett invited Mr. David W. Perlis, President of *Perlis*, to speak to the Committee. Mr. Perlis said it does have a location 3 blocks away at the Jax Brewery. That location has been there for 20 years. Its sales are in the range of \$500,000-600,000. Mr. Perlis stated that the Brewery location would be closed if given approval by the Committee to move in to the Lower Pontalba. As to the issue of malfeasance, Mr. Perlis said the former CFO is in jail, and *Perlis* has since straightened out its finances and sees no issues in the future. The company is amply solvent. Mr. Perlis then spoke of the nature of the proposed business move. He first stated that the federal trademark of the crawfish logo has become famous. It attracts customers. He felt that the Lower Pontalba space, if made available, is bigger than the current space at Jax Brewery. Ms. Mack asked if *Perlis* sells Tabasco clothing, and Mr. Perlis said no; Ms. Mack wanted to ensure that existing Lower Pontalba tenants who sell Tabasco products would not be affected. Mr. Perlis stated that the store stopped selling Tabasco products about 5-7 years ago. Mr. Perlis then discussed the type of product to be sold; there was a brief discussion of "t-shirts" but Mr. Perlis assured the members that all products were of high quality. Mr. Kelly said a percentage of rent overage, if any, is standard. He asked Mr. Perlis if he could guarantee a percentage rent based on projected sales of \$600,000 (as compared to existing sales at the Jax Brewery). Mr. Perlis said he is open to negotiation on that issue. Mr. Brandon Berger spoke on behalf of Mr. Perlis and said that as the *Perlis* landlord at Jax Brewery, their relationship has always been good and there were no issues whatsoever. He stated that *Perlis* was a great tenant and that the store has a "shadow effect," that is, it has an impact of attracting both locals and tourists, all of which affects the sales for surrounding stores at the Brewery..

Mr. Barnett called upon Ms. Sherie Mirpuri. She spoke about her business, *Ma Sherie Amour*. *Ma Sherie Amour* has been a tenant at the Lower Pontalba for 17 years. The store sells unique items which provide what she claims is "a special shopping experience." She stated that she also has a strong return client base. Ms. Mirpuri said she would like to continue "her dream." Mr. Barnett asked if sales at *Ma Sherie Amour* have been flat over the years. Ms. Mack said they have been consistent, but her best sales are in the months of March and April. *Ma Sherie Amour* made \$382,000 in sales last year. Ms. Mirpuri discussed new marketing ideas, is starting a Facebook page and hopes it will increase her sales. This is her only store. It is her only livelihood.

Ms. Ewing MOVED, seconded by Ms. Zink to continue with *Ma Sherie Amour* as the commercial tenant at the Lower Pontalba building at 517 St. Ann Street at a monthly rental rate of \$4,653, effective February 1, 2016. There was no further public discussion. **Six members of the Committee were in approval of the motion, with one dissenting vote by Dr. Powell.**

Afterwards, Mr. Kelly requested that the LSM staff look at the proposal policy and include verbiage to guarantee a minimum rent, but also allow for a prospective tenant has the ability to add additional financial terms to enhance a submittal in a 'true bidding' process. Dr. Powell said, while he liked Ms. Mirpuri's comments, he was torn because the Irby/Finance Committee, as fiscal stewards, must be mindful of its financial responsibility.

c. Commercial/residential tenant concerns

The next matter was called. In accordance with the LSM Board's bylaws, Mr. Barnett again reminded all persons present wishing to address the Committee had to have timely completed and submitted the "Public Comment Request" card with their name and address on it. He again stated that the LSM bylaws allow a maximum time of 20 minutes for all concerned persons to speak. He requested that each tenant addressing the Committee to please refrain from repeating something previously mentioned in order to afford all people the opportunity to speak.

Haydee Mackey – tenant at 531 St. Ann Street, 3rd floor – stated that her apartment was "not luxury living," that there were always "difficulties with logistics," and that maintenance was of great concern to her and that there were mice and mold problems.

Hugh Lambert – tenant at 519 St. Ann Street, 2nd floor – stated that he has been a tenant for almost 40 years and that his bathroom had never been upgraded; he stated that he had no front a/c unit; he stated that his kitchen was 'old;' he stated that he has "learned to work with all the issues."

Louis Sahuc – tenant at 515 St. Ann Street, 2nd floor (James Arey spoke for Mr. Sahuc) – read a prepared written statement. He stated that LSM was 'driving away tenants', the apartments are full of 'part-time residents', he disputes that there is a list of 150 prospective tenants, that there were many inconveniences (such as drunks at the doorsteps and the fact that 1st Responders would not respond); he challenged the use of Upper Pontalba 2015 study; he stated that his apartment was a "box with a view"; he disputes the charge for any balcony; he expressed disdain with LSM staff.

Charles Cole – tenant at 515 St. Ann Street, 3rd floor – wanted to see a copy of the Pontalba Last Will; he briefly stated that "upkeep and maintenance is terribly neglected."

Ben Skillman – tenant at 519 St. Ann Street, 2nd floor – stated that the proposed rent was too high.

Marianne Lewis – Manager of *Jackie's* and *Violet's* – initially wanted to discuss the rent abatement issue that had been previously discussed at the prior November 9, 2015 meeting of Irby and the Board. Mr. Barnett again reminded Ms. Lewis that he had raised the issue of a state constitutional prohibition about 'giving something away of value'. Nevertheless, he allowed Ms. Lewis to continue speaking on the unrelated issue of 'rent abatement for commercial tenants' for another minute, but cautioned that her speaking was subtracting time from the 20 minute period. He offered Ms. Lewis the opportunity to meet separately with Staff after the meeting. LSM counsel, Ms. Moore offered to meet with Ms. Lewis after the meeting.

Patrick McNulty – tenant at 810 Chartres Street, 3rd floor – stated that he felt the rent unfair.

Kevin Mackey – tenant at 531 St. Ann Street, 3rd floor – stated that it was an “abusive rent increase.” Mr. Barnett asked Mr. Mackey about the similar percentage rent increase in 2011 by the Upper Pontalba. Mr. Mackey also challenged the list of 150 prospective tenants.

Jeffrey Pipes Guice – LSM Board member – stated that he had spoken with Peter McEnery who had conducted the recent 2015 study for French Market. Mr. Guice felt that the McEnery study is not comparable at all. He did state that Mr. McEnery’s services are available to do a new study for LSM and that the cost would be approximately \$10,000 to complete.

All persons who submitted “Speaker cards” were afforded the opportunity to speak. All remaining persons waived their appearances.

The Committee Members generally summarized the issues: The Lower Pontalba residential apartments “are not luxury living.”

- Despite monthly pest control, there are rodent problems.
- There are inconveniences associated with living in the Lower Pontalba, such as no parking, no elevators, and homeless people on Jackson Square.
- The desire to have maintenance issues addressed more quickly
- The desire to have 24/7 security
- The request that LSM better clean, maintain, paint, and improve the common hallways
- The concern that the wiring in the building needs repairs and upgrades.
- Some units do not have central a/c and heating.
- The proposed rent increases are too steep in too short a time period.
- Speculation that people on the waiting list will not be interested in renting an apartment once the proposed rent increases go into effect.
- A new rent study should be commissioned specifically for the Lower Pontalba, rather than using and adapting the 2015 rent study commissioned for the French Market Corporation.

Mr. Tullos clarified that the waiting list of 150 is current. Recently, Ms. Washington sent out letters to all of the people on the Lower Pontalba residential waiting list, and most of the people responded and wished to remain on the list. According to Mr. Tullos, only about 8 or 9 people out of the approximately 150 people on the list wanted to be removed.

Mr. Kelly said the rent study commissioned for the French Market Corporation (to assist the FMC in setting the residential rents for the Upper Pontalba Building) determined the average market rents for comparable residential properties in the French Quarter. He read the study and thinks the rates LSM Board adopted are in line with the general market rates for comparable properties in the French Quarter and therefore are applicable to the Lower Pontalba Building apartments.

Mr. Barnett said if other tenants would like to comment on concerns about the rental increase or general maintenance issues, they should submit letters or emails in writing to Mr. Tullos’ attention. He stated that Irby takes all comments seriously and will address each one in due course.

Dr. Powell noted his appreciation for the issues the tenants raised and his interest in ensuring the LSM Board is charging fair market rates.

Dr. Powell MOVED, seconded by Ms. Zink, to amend the agenda to allow the Committee to reconsider the residential rent schedule adopted by the Irby Committee and the LSM Board at the November 9, 2015 meeting. **That motion failed on a vote of 5 in favor, and 2 against.**

(Administrative note: Only upon unanimous approval of the members present may the public body take up a matter not on the agenda.)

Following some discussion, Mr. R. Davis said, while he is not a member of the Irby/Finance Committee, he recommends the Committee amend the agenda to reconsider the matter of the new residential rents, specifically, to commission a rent study for the Lower Pontalba Building.

Mr. R. Davis also noted that all members of the Committee and LSM staff acted in good faith in the adoption of the residential rent schedule adopted at the November 9 meeting. Committee members also noted that the proposed rent study may reveal that the rental rates should be even higher than those proposed and adopted at the November 9, 2015 meeting.

Dr. Powell again MOVED, seconded by Ms. Zink, to amend the Agenda to allow the Committee to suspend the residential rates adopted in November and specifically to authorize the staff to commission a rent study for the Lower Pontalba to set the new rates. There was no further public discussion. **The motion carried unanimously.**

In response to questioning by the Irby/Finance Committee, Ms. Moore said the current residential leases expire on January 31, 2016. The current leases can be re-conducted on a month-to-month basis pending the completion of the rent study and the LSM Board's adoption of the proposed new rates. The terms of the new leases at the new rates may be for the balance of the year 2016 through January 31, 2017.

Mr. Kelly MOVED that the LSM staff seek out, select and contract with a qualified appraiser to perform a rent study specifically for the Lower Pontalba Building and that the Director be given the specific authority to complete this task and sign all necessary documents and when the rent study is complete, the new rents must be adopted by a vote of the LSM Board and shall become effective in the new residential lease agreements and that the new rates will not be phased in. Seconded by Dr. Powell. There was no further public comment. The motion was **unanimously approved.**

Ms. Lewis requested that all commercial and residential tenants be emailed the Irby/Finance Committee agendas. Mr. Tullos said he will ask staff to do that.

Dr. Haedicke had two closing requests or comments. First she suggested when tenants appear before the Committee as a group that they return more united with less contradicting comments. Secondly, Dr. Haedicke expressed concern that the Committee members received an anonymous email stating that the Committee did not have the legal right to increase Lower Pontalba rents. However, Ms. Moore addressed the issue and confirmed that the Committee is perfectly within its legal right, per the Irby Will as Trustees, to set the rental rates.

Meeting adjourned at 12:00 PM.

Commented [JGM1]: This isn't what happened. Remember, they had to amend the agenda first, to be able to take up the matter of "reconsideration" of the residential rents. And Rosemary and Marilyn initially refuses to amend the agenda. But Randy eventually convinced them to. And after the agenda was amended, then they unanimously approved a motion to commission a rent study.